

THE UNITED STATES DISTRICT COURT
THE DISTRICT OF COLUMBIA

THE ESTATE OF ESTHER KLIEMAN, et al.,)

)

Plaintiff,)

)

vs.)

Case No.

) 04-1173 (PLF) (JMF)

)

THE PALESTINIAN AUTHORITY, et al.,)

)

Defendants.)

)

DEPOSITION OF

HASAN ABU-LIBDEH

East Jerusalem, Israel

June 16, 2010

REPORTED BY: AMY R. KATZ, RPR

1 (The following proceedings were conducted
2 through the Arabic interpreter, until otherwise
3 indicated.)
4

5 EXAMINATION

6 BY MR. HEIDEMAN:

7 Q. Would you state your name, please, sir?

8 A. Hasan Abu-Libdeh.

9 Q. Thank you.

10 Would you spell that, please, for the court
11 reporter?

12 A. (In English.) H-A-S-A-N, A-B-U,
13 L-I-B-D-E-H.

14 MR. O'TOOLE: I thought there was some
15 agreement as to the procedures, that there would be
16 translation and that he would answer in Arabic. And
17 Mr. Abu-Libdeh feels much more comfortable having the
18 translator.

19 MR. HEIDEMAN: All I asked him was his name.

20 MR. O'TOOLE: Absolutely. I just wanted to
21 clarify for that.

22 Q. Would you tell the court, please, your
23 address?

24 A. Ramallah, Atira, Palestine.

25 Q. Please tell the court by whom you are

1 employed?

2 A. The Palestinian Authority, Palestinian
3 National Authority.

4 Q. What is your position with the Palestinian
5 National Authority?

6 A. He's the minister of finance.

7 THE WITNESS: (In English.) Economy.

8 (Brief reporter clarification.)

9 INTERPRETER MEISER: "I am the minister of"
10 -- I forgot the terminology.

11 THE WITNESS: (In English.) Minister of
12 national economy.

13 INTERPRETER MEISER: "Minister of national
14 economy."

15 BY MR. HEIDEMAN:

16 Q. What are your responsibilities as the
17 minister of national economy for the Palestinian
18 National Authority?

19 A. (Translated.) I take care of everything
20 that -- on the fine proceedings regarding financial
21 matters as representative of the Palestinian National
22 Authority.

23 THE WITNESS: (In English.) No, no, hold
24 it. This is not the correct translation. I said I am
25 supervising the work of this ministry on behalf of the

1 Palestinian National Authority to run, for the best of
2 my abilities, the Palestinian economy; not financial.

3 (Brief comment in Arabic by the witness.)

4 MS. MATTA: You need to translate that for
5 the attorneys.

6 MR. HEIDEMAN: I understand what the witness
7 said. He spoke in English.

8 MR. NUDELMAN: No, he said something in
9 Arabic after.

10 MR. HEIDEMAN: Oh, okay.

11 INTERPRETER MEISER: He said, "Help us,
12 brothers, because he translates wrong."

13 THE WITNESS: (In English.) "When he
14 translates wrong," not "because he translates."

15 INTERPRETER MEISER: Yes, "when."

16 MR. HEIDEMAN: Thank you.

17 BY MR. HEIDEMAN:

18 Q. When did you first begin to work for the
19 Palestinian National Authority?

20 A. I started working for Palestinian National
21 Authority in the first day the Palestinian Authority
22 was declared, in the year 1993.

23 Q. For whom did you work before 1993? And I
24 think it would be best if I asked you this question in
25 chronological order, regarding your background, and

1 with your permission, I will do so.

2 A. I was a doctor in Bir Zeit University until
3 the National Authority, Palestinian National Authority
4 was declared. Then I went on to business in the
5 Authority. And then I --

6 THE WITNESS: (In English.) Resigned.

7 INTERPRETER MEISER: Resigned.

8 A. (Translated.) Resigned again.

9 INTERPRETER MEISER: What did you say?

10 THE WITNESS: (In English.) End of 2005.

11 A. (Translated.) After that I went to the
12 private sector, and then I went back to working for the
13 Palestinian Authority in 2008.

14 Q. Where were you born?

15 A. I was born in the village of Araba in the
16 second sector of Jenin.

17 THE WITNESS: (In English.) Governorate of
18 Jenin.

19 Q. And where did you grow up and do your
20 elementary and high school schooling?

21 A. I went to elementary school in the village
22 of Araba, and then I went on to go to school in Jordan,
23 in Amman. And then I went back to the city of Jenin,
24 to high school, and then I went from Jenin to Ramallah
25 to study in the University of Bir Zeit.

1 Q. Did you receive your degree from that
2 university?

3 A. (In English.) My first degree, yes.

4 Q. And what was your first degree, a
5 bachelor's?

6 A. (Translated.) I got a first degree in math.

7 (Brief exchange in Arabic between
8 Interpreter Meiser and the witness.)

9 INTERPRETER MEISER: In '97 -- '79, sorry.

10 Q. Did you continue schooling directly or did
11 you go to work before returning to school?

12 A. I worked for a year in the University of Bir
13 Zeit, and then I traveled to the United States and I
14 received a second degree from the University of
15 Stanford, and then I went back for two years to the
16 University of Bir Zeit, and went back to the United
17 States and completed a doctorate in the University of
18 Cornell in the year '88.

19 Q. So you have a master's degree from Stanford
20 University in California and a doctorate from Cornell
21 University in New York; is that right?

22 A. Yes.

23 Q. Were your studies at Stanford in English?

24 A. Yes.

25 Q. Were your studies at Cornell in English?

1 A. Yes.

2 Q. And you have also served as a research
3 assistant and lecturer at Cornell University; isn't
4 that correct?

5 A. Yes.

6 THE WITNESS: (In English.) That's correct
7 but I feel much better speaking Arabic in this issue.

8 Q. The research assistant work and the
9 lectureship that you had at Cornell University was in
10 English; isn't that correct?

11 A. (In English.) Yes.

12 Q. Having received a master's degree in
13 English --

14 MR. O'TOOLE: I'm going to object to the
15 line of questioning. To the suggest that the witness
16 does not have the right to testify in their native
17 language is not supported by any legal doctrine that I
18 know of.

19 Q. The fact that you have obtained two degrees
20 in studies in the English language and have been a
21 lecturer --

22 A. (In English.) Not in the English language.

23 Q. I'll rephrase. Thank you.

24 It's true, is it not, sir, that at Stanford
25 University and Cornell University, the primary language

1 deputy president of the technical and advisory
2 committees, sir?

3 A. Yes.

4 Q. Could you tell the court what is the
5 technical and advisory committees, because I understand
6 that you worked with a very esteemed professor, Sari
7 Nusseibeh, and if I pronounced it incorrectly, I
8 apologize, but would you tell the court what that is
9 and what work you did?

10 A. The technical and advisory committees is a
11 collection of Palestinian experts who were in charge of
12 providing the technical documentation and position
13 papers for the Madrid and Washington negotiations
14 between Palestine and Israel.

15 Q. Thank you.

16 Were you involved, Dr. Abu-Libdeh, in the
17 negotiations leading to the Oslo Accords?

18 A. Yes.

19 Q. Were you involved in that capacity, through
20 the technical and advisory committee, or in some other
21 capacity?

22 A. In this capacity and as the member of the
23 bilateral negotiating team, negotiating the Madrid-
24 Washington track.

25 Q. Thank you.

1 MR. HEIDEMAN: Thank you very much.

2 BY MR. HEIDEMAN:

3 Q. Dr. Abu-Libdeh, in relation to the
4 negotiations on behalf of the Palestinian side, you
5 just testified that the Palestinian organization which
6 was the negotiator, if I understand you correctly, and
7 which history, of course, is something we all know, was
8 the Palestine Liberation Organization; is that correct?

9 A. Correct.

10 Q. I understand you have not been designated to
11 testify here today on behalf of the Palestine
12 Liberation Organization, but rather on behalf of the
13 Palestinian National Authority, and accordingly, I
14 don't want to, shall we say, violate the rules. So if
15 I ask too many questions about the Palestine Liberation
16 Organization's role in building up to the establishment
17 of the Palestinian National Authority, please
18 understand, my purpose is so that the record is
19 accurate and history is recited correctly into this
20 record. Do you understand, sir?

21 A. I do.

22 Q. Thank you.

23 In that context and without belaboring the
24 point, tell the court, please, generally, the history
25 as you understand it of the establishment of the

1 Palestine Liberation Organization, and how it, as you
2 observed it, came to be the negotiator in the
3 establishment of the Palestinian National Authority.

4 Do you understand my question?

5 A. The Palestine Liberation --

6 MR. O'TOOLE: Just to put it on the record
7 to be clear, as counsel indicated, that Dr. Abu-Libdeh
8 is speaking on behalf of the Palestinian Authority in
9 this question, and not on behalf of the PLO.

10 MR. HEIDEMAN: Yes, and the context of my
11 question is in building up to the establishment and
12 creation of the Palestinian National Authority.

13 MR. O'TOOLE: Understood.

14 MR. HEIDEMAN: Thank you.

15 BY MR. HEIDEMAN:

16 Q. Do you need me to repeat the question,
17 Dr. Abu-Libdeh?

18 A. No.

19 Q. Thank you, sir.

20 A. The Palestinian Liberation Organization was
21 created by the Arab League in 1964 to represent the
22 Palestinian people, and the Arab League, in 1974, voted
23 unanimously that the PLO is the sole legitimate
24 representative of the Palestinian people.

25 In view of this voting, the Palestine

1 Liberation Organization represented to the best of its
2 ability the interests of the Palestinian people. And
3 when the negotiations started, we were chosen, myself
4 and other delegates, to negotiate on behalf of the PLO,
5 the organization being the sole legitimate
6 representative of the Palestinian people.

7 Q. Thank you.

8 Were you, from a history point of view,
9 historical perspective, were you at any time prior to
10 1993 active in any capacity with the Palestine
11 Liberation Organization, prior to the time that you
12 came on to the negotiating committee that resulted in
13 the establishment of the Palestinian National
14 Authority?

15 A. The PLO does not have a register of, quote,
16 members, especially at that time those who resided in
17 the West Bank or Gaza. But we all Palestinians
18 recognize that the PLO is the sole legitimate
19 representative of the Palestinian people, and being one
20 of them, I was one of those represented by the PLO.

21 Q. Did you hold any position at any time with
22 the PLO prior to the time that you came on to the
23 negotiating committee that led to the establishment of
24 the Palestinian National Authority?

25 A. No.

1 Q. At any time have you ever been affiliated
2 with any particular political party or political
3 movement within Palestinian society?

4 A. Yes. As a member of Fatah organization and
5 many NGOs.

6 Q. In what year did you first become affiliated
7 with Fatah?

8 A. 1973, as a member.

9 Q. And have you continued your membership in
10 Fatah continuously from that time until now?

11 A. Yes.

12 Q. Thank you.

13 At the time you became a member of Fatah,
14 was Yasser Arafat the head and chairman of Fatah?

15 A. Yes.

16 Q. Was that his proper title, and that is that
17 of chairman?

18 A. He was chairman of the PLO, but Fatah he was
19 a member of.

20 Q. How many negotiators were on the team with
21 you that led to the establishment of the Palestinian
22 National Authority, as best you recall?

23 A. The whole team was probably -- was probably
24 100 people, but the negotiators sitting at the table
25 were 14.

1 When you served in the 1991 to 1993
2 negotiations as part of the first team, did you do so
3 as an employee of the technical and advisory
4 committees, or did you do so in the name of the
5 Palestine Liberation Organization?

6 A. I was running the technical and advisory
7 committees, and during that time I was chosen by the
8 PLO to be a member of the negotiating team.

9 Q. And were you compensated by the Palestine
10 Liberation Organization or by the technical and
11 advisory committees for your work during that time?

12 A. I was compensated by neither. I was
13 seconded by Bir Zeit University, and Bir Zeit
14 University continued to pay my salary.

15 Q. Now, after the September 13, 1993, signing,
16 you indicated that you became employed by the
17 Palestinian National Authority; is that correct?

18 A. Yes. As a founder.

19 Q. As a founder of what, sir?

20 A. Of the institutional infrastructure of the
21 Palestinian National Authority.

22 Q. Please tell the court whether or not, prior
23 to September 13, 1993, the Palestinian National
24 Authority existed as an entity or an organization?

25 A. It did not exist.

1 Q. And what is it that occurred, sir, to cause
2 and permit the creation of the entity known as the
3 Palestinian National Authority?

4 A. The successful negotiations between the
5 Palestine Liberation Organization and Israel led to the
6 signing of the Declaration of Principles, and then
7 later on to the signing of the Oslo Agreements, and
8 this is the basic regulatory foundation for the
9 Palestinian National Authority.

10 Q. Was the Palestinian National Authority ever
11 incorporated as a legal entity, to the best of your
12 knowledge?

13 A. It is a legal entity, and the source of the
14 legality is the agreement with Israel, Oslo-1, Oslo-2,
15 the Declaration of Principles, and all other
16 agreements. This is an entity which was established in
17 accordance with these agreements, and which is today
18 functioning in accordance with these agreements.

19 Q. Thank you.

20 Would you describe the legal entity of the
21 Palestinian National Authority as being an
22 organization, a nongovernmental organization, a
23 corporation, or what, if you know? And I understand
24 your expertise is not in legal matters, but I would
25 like to know what is your view, since you're here as

1 the designated representative of the Palestinian
2 National Authority.

3 A. The --

4 MR. O'TOOLE: Objection as to the scope and
5 as to his competency. That's it.

6 MR. HEIDEMAN: Thank you.

7 Q. Yes, sir?

8 A. The PNA is a legal structure which was born
9 as a result of the successful negotiating --
10 negotiations between the PLO and Israel, and it is
11 governed by its Basic Law and the various subsidiary
12 sectoral laws and the binding principles of the
13 negotiated agreements. The reference for its work, its
14 functions, is the Oslo agreements and the various laws
15 that have been put together and approved by the
16 Palestine Legislative Council, which is how this --
17 this entity works.

18 Q. Thank you for that explanation. I'll ask
19 you more questions about this in a moment.

20 To the extent that you know, can you please
21 tell the court whether or not the Palestine Liberation
22 Organization, which you already have testified is
23 recognized as the sole legitimate representative of the
24 Palestinian people, please tell the court if the PLO,
25 to the extent of your knowledge, is an organization, an

1 association, or a corporation, or some other legal
2 structure, to the extent you have knowledge?

3 MR. O'TOOLE: Again, objection as to his
4 ability to talk about legal concepts, but he may answer
5 the question.

6 A. As I said, I don't really know if an
7 organization fits -- yes, it's an organization. But
8 I'm not an expert in legal matters.

9 Q. Thank you.

10 Tell the court, if you would, in relation
11 to the interrelationship, in 1993 and subsequently,
12 between the PLO and the Palestinian National Authority,
13 and with that background, I will now ask a question:

14 Please, Dr. Abu-Libdeh, explain to the court the role
15 of the Palestine Liberation Organization in the
16 Palestinian National Authority, after the establishment
17 of the Palestinian National Authority on September 13,
18 1993?

19 A. There is no direct role the PLO plays in the
20 functions of the PNA. The PNA is an organ created as a
21 result of the negotiations, bound by the agreements
22 with Israel, and the laws that have been established
23 since then, and is bound also by the political program
24 of the PLO, being the sole legitimate representative of
25 the Palestinian people entering into agreements with

1 Israel.

2 All the agreements signed with Israel were
3 signed by the PLO on behalf of the Palestinian people,
4 including those agreements creating the Palestine
5 National -- the Palestinian National Authority.

6 Q. Thank you.

7 When you have used the abbreviation, sir,
8 "PNA," does that stand for the Palestinian National
9 Authority?

10 A. Yes, sir.

11 Q. When you have used the words, sir, "PLO,"
12 does that stand for the Palestine Liberation
13 Organization?

14 A. Yes.

15 Q. We also hear reference, although neither you
16 nor I have used it, to the abbreviation "PA." Would
17 you explain to the court what is the PA, and if there
18 is any difference between "PA" and the "PNA," which you
19 just testified stands for the Palestinian National
20 Authority?

21 A. The PA is the legal term used in the
22 Declaration of Principles and the Oslo Agreements to
23 refer to the Palestinian National Authority.
24 Therefore, PA and PNA are the same.

25 Q. Thank you very much.

1 In an earlier answer, you referenced not
2 only Oslo, but you referenced Madrid. Would you please
3 explain to the court why you referenced Madrid in
4 relation to the establishment of the Palestinian
5 National Authority?

6 A. I was referring -- referring to the
7 negotiations process. That process started in 1991
8 with negotiations in Madrid, moving to Washington, then
9 branching into Oslo, where the breakthrough was
10 created.

11 Q. I didn't hear the last words?

12 A. Branching into Oslo in 1993 --

13 Q. Yes?

14 A. -- where the history was made.

15 Q. Thank you.

16 So we understand, then, that the Palestinian
17 National Authority, otherwise referred to as the PNA or
18 the PA, did not exist prior to the signing of the
19 documents on the White House lawn on September 13,
20 1993; is that correct?

21 A. Correct.

22 Q. And when you used the term "Oslo Accords,"
23 to what were you referring, please, sir?

24 A. In general, "Oslo Accords" refer to all
25 documents signed between the PLO and Israel, and

1 specifically Oslo-1, which was signed in 1994, and
2 Oslo-2, which was signed in 1995.

3 Q. Is there a difference, sir, if you would
4 please explain to the court, between what was signed on
5 the White House lawn on September 13, 1993, and what
6 you've now referenced as the Oslo Accords and Oslo-1
7 and 2?

8 A. The first one, the DOP. The Declaration of
9 Principles is the framework agreement between Israel
10 and the PLO. Oslo-1 was phase one of the detailed
11 arrangements reflecting the agreement in 1993, and
12 Oslo-2 is further -- further details of this agreement.
13 The first one was referring to -- in the phase one of
14 Oslo-1 was referring to arrangements for Gaza and
15 Jericho, and Oslo-2 was referring to the whole of the
16 West Bank and Gaza.

17 Q. Did the Declaration of Principles, sir,
18 constitute, to use the term you just used, a framework
19 agreement, and if so, what do you mean, sir, by the
20 term "framework agreement"?

21 MR. O'TOOLE: If I could have a continuing
22 objection to this line of questioning to the extent
23 that it calls for Dr. Abu-Libdeh to express legal
24 conclusions. I'd just like to speed things up, and
25 I'll have a continuing objection.

1 National Authority.

2 Q. I thought I heard you use a particular word
3 in Arabic in relation to the group of experts. What
4 Arabic word did you use, so that the record is clear?

5 A. I said "wi'a," pot.

6 Q. Pot, P-O-T?

7 A. Pot.

8 MS. MATTA: P-O-T.

9 Q. Group.

10 A. Yes. Yes. It was the pot. Correct.

11 Q. Although the Declaration of Principles of
12 September 13, 1993, created the Palestinian National
13 Authority, do I understand from your testimony that in
14 order for it as an entity to be able to grow, so it
15 could function on behalf of the Palestinian people,
16 various institutions and infrastructures had to be
17 created?

18 A. Correct.

19 Q. Is that an accurate interpretation from your
20 testimony, sir?

21 A. Correct.

22 Q. Thank you.

23 Now, explain to the court how long the
24 process of establishing the institutions and
25 infrastructures for the Palestinian National Authority

1 went on during that time period, because, of course,
2 common history reflects that Prime Minister Dr. Salam
3 Fayyad speaks even today about infrastructure and
4 institutions. So explain to the court, please, the
5 growth and development of the infrastructure and
6 institutions from September 1993 forward, if you would,
7 please, sir.

8 A. In -- at that time we were and we still are
9 occupied by Israel. Therefore, Israel established the
10 minimum institutional basis for serving the public. It
11 was the minimum; that is to say, there were many
12 spheres where institutions didn't exist.

13 The signing of the Declaration of Principles
14 opened the way for completing the institutional
15 arrangements to fund those institutions that will lead
16 to the development of the services that were not
17 attempted by the occupation, and to strengthen those
18 that will be transferred to the Palestinian Authority
19 upon the signing of the Oslo-1 and Oslo-2.

20 So the process, first of all, there is
21 nothing in history that says from the day-one to day-X
22 this thing is created; this is a process. But the bulk
23 of the process probably took through 1996.

24 Q. Thank you.

25 At the time of the signing of the

1 get back to where I was trying to get us.

2 BY MR. HEIDEMAN:

3 Q. Dr. Abu-Libdeh, did the Palestinian National
4 Authority actually execute, as a party, the agreement
5 to which you earlier referred as the Oslo-1 Accords in
6 1994?

7 A. Say that again? I don't understand.

8 Q. Yes. I'll withdraw and rephrase the
9 question.

10 Dr. Abu-Libdeh, did the Palestinian
11 National Authority, as an entity, sign the Oslo-1
12 agreements in 1994?

13 A. No.

14 Q. Which parties signed that agreement?

15 A. That agreement was between the PLO and
16 Israel. This was signed by the PLO and Israel.

17 Q. If you can explain to the court, please, why
18 that agreement was signed by the PLO and not by the
19 Palestinian National Authority, which had already been
20 created by that time, I would appreciate it.

21 MR. O'TOOLE: Objection as to the
22 speculation.

23 MR. HEIDEMAN: I'll rephrase the question.

24 Q. I understand that the Palestinian National
25 Authority, sir, was already in existence from and after

1 sovereignty withheld at the time of the transfer from
2 Israel to the Palestinian National Authority of civil
3 administration over the West Bank?

4 A. Yes.

5 Q. When you use the word "sovereignty," to what
6 do you refer? And you gave a partial answer before,
7 but I'd like to be sure it's clear.

8 A. Yes. When I say this, I mean that the
9 authorities transferred were limited authorities.
10 Effectively, the authorities where the PNA could
11 exercise its functions in a limited way and in very
12 specifically listed spheres and areas.

13 Q. Thank you.

14 Did the Palestinian National Authority,
15 which you previously testified was not a signatory at
16 Oslo-1, did it become a signatory to Oslo-2?

17 A. No.

18 Q. Was the signatory to Oslo-2 on behalf of the
19 Palestinian people the Palestine Liberation
20 Organization, as it was in Oslo-1?

21 A. Yes.

22 Q. In relation to the civil administration
23 transfer of authority from the State of Israel to the
24 Palestinian National Authority over the West Bank in
25 Oslo-2, please tell the court whether or not geographic

1 lines or definitions were established, as it relates to
2 the areas geographically that were transferred for
3 civil administration from the State of Israel to the
4 Palestinian National Authority?

5 A. In Oslo-2, the West Bank was divided into
6 three zones. One zone called Zone A, where the
7 Palestinian Authority was assigned full authority
8 functions and responsibilities, including issues
9 relating to security matters, the public order in
10 particular, and those areas were the city centers of
11 the West Bank. This is one zone.

12 The second zone was designated as Area B,
13 which refers to most of the remaining populated areas,
14 and in these areas designated as B, the Palestinian
15 Authority was assigned the functions and
16 responsibilities in the civil spheres; that is to say,
17 to serve the people in civil matters, with an
18 overriding security responsibility of Israel, for
19 Israel.

20 And the remaining areas of the West Bank
21 were characterized as Area C, where the Palestinian
22 Authority had no responsibilities or authorities.

23 Q. Did you say had no --

24 A. No.

25 Q. In Area C the Palestinian Authority had no

1 Q. Are you familiar, sir, with the geographic
2 area where Esther Klieman was shot?

3 A. Not the exact location, but the general
4 area, yes.

5 Q. Thank you.

6 Could you please tell the court, based upon
7 your knowledge of the general area, whether or not, to
8 the best of your information, sir, Esther Klieman was
9 shot and died in area zone A or zone B or zone C, which
10 you identified as three zones established in accordance
11 with Oslo-2?

12 A. Area C, where the Palestinian Authority has
13 absolutely no powers or responsibilities.

14 Q. Thank you.

15 Let me step back in time for a moment and
16 ask you whether or not, at any time from 1995 until
17 now, the areas or zones of zones A, B, and C, were at
18 any time changed?

19 A. Yes, unilaterally by Israel, as of 2001.
20 The Israeli side has withdrawn its commitment to the
21 agreement vis-a-vis the zoning, not in writing, but in
22 action, and they started dealing with the whole of West
23 Bank as if it is Area B. That is to say, they have
24 withheld the security and public order responsibilities
25 of the Palestinian Authority in Area A, and started

1 dealing with the whole of West Bank on the basis of
2 their overall -- overriding security responsibility,
3 including in Area A, B, and of course, Area C.

4 Q. Thank you very much for that context.

5 Have there been any other changes to the
6 zones A, B, and C at any time from 1995 until today?

7 A. If you -- if this question refers to the
8 geographical designation of these areas, yes. During
9 -- after the Oslo-2 agreement, there were further
10 negotiations between the PLO and the Israeli government
11 and at some stage, in Wye River, I think it was, in
12 1998, there was further agreements where some of the
13 areas have been changed from C to B or B to A, which
14 has resulted in an increase of 13.1 percent of the
15 characterization of the zones between A, B, and C. And
16 we ended up having Area A and B combined, you know,
17 occupying about 40 percent of the size of the West
18 Bank.

19 Q. And would that be pursuant to what is
20 generally referred to as the Hebron Accords?

21 A. It would be Hebron.

22 Q. And also the Wye River Accords?

23 A. Including Wye River, yes.

24 Q. So those changes occurred in 1998 and
25 perhaps 1999, in terms of the Hebron Accords and the

1 Wye River Accords; is that right?

2 A. I don't remember whether it's 1998 or '9, or
3 during -- during the Netanyahu government. I don't
4 remember exactly.

5 Q. Thank you.

6 And were there any other changes in the zone
7 designations of A, B, and C as established under
8 Oslo-2, generally, other than that to which you've
9 already generally testified?

10 A. Sir, if you're referring to formal
11 agreed-upon arrangements, no. If you're referring to
12 practical, in-field, unilateral acts, yes. Israel has
13 withdrawn parts of Area A and B to assume the
14 overriding security responsibility over all of Area A.

15 Q. Thank you.

16 Let me return in that context, then, back to
17 Oslo-2 and proceed chronologically, as I was before.

18 As it relates to the three zones, A, B, and
19 C, which you indicated were created and authorized
20 under Oslo-2, you indicated that zone C was a zone over
21 which the Palestinian Authority had no responsibility
22 or authority; is that correct?

23 A. Yes, correct.

24 Q. When you say the Palestinian Authority had
25 no responsibility, to what were you referring?

1 that were in existence for the time period 2000 through
2 2005?

3 A. All public matters that have not been dealt
4 with through specific ministries and that are in
5 agreement with the functions and responsibilities given
6 to the PA in the Oslo Accords were assigned to the
7 so-called public agencies, governmental, but the degree
8 of independence is variant, and were running their
9 affairs as semi-independent agencies, like the
10 Palestinian Monetary Authority. It wasn't a ministry,
11 but it was a public agency.

12 Q. Thank you.

13 And was there a legislative body in
14 existence for the Palestinian National Authority for
15 the time period 2000 to 2005?

16 A. Yes.

17 Q. What was the name of the legislative body?

18 A. The Palestinian Legislative Council.

19 Q. You have already testified you've never been
20 a member of the Palestinian Legislative Council?

21 A. Yes.

22 Q. Do I understand correctly?

23 A. Correct.

24 Q. Thank you.

25 And during the time period 2000 to 2005,

1 Q. By the people?

2 A. According to the Basic Law.

3 Q. Thank you.

4 So stepping back for a moment to the time
5 period until the death of the late Yasser Arafat, tell
6 the court, if you would, who had elected Yasser Arafat
7 as the president of the Palestinian National Authority
8 after its creation?

9 A. Yasser Arafat ran for office on January 20,
10 1996, and he won the elections to the office of the
11 president of the Palestinian Authority in 1996.

12 Q. And at the time that Yasser Arafat ran and
13 became president of the Palestinian Authority in 1996,
14 was he then serving as the president or head of the
15 Palestine Liberation Organization?

16 A. Yes.

17 Q. Did he continue in that position?

18 A. Yes.

19 Q. Was he also the head of Fatah?

20 A. Yes.

21 Q. And did he continue in that position?

22 A. But these three different organizations,
23 each has its own governance charter, modalities of
24 electing to office. These are two -- three different
25 entities. So yes, he happened to be in each of those,

1 but he assumed the office in each of those as a result
2 of a process that is limited to each of those.

3 Q. All right.

4 A. Independent of that.

5 Q. Thank you.

6 I'll ask you further about that in a moment.

7 A. Please.

8 Q. Explain to the court whether or not it's
9 true that on March 24, 2002, the day when Esther
10 Klieman was shot, is it correct that Yasser Arafat was
11 the elected president of the Palestinian National
12 Authority?

13 A. Correct.

14 Q. And on that day of March 24, 2002, is it
15 true that Yasser Arafat also simultaneously served as
16 the president and head of the Palestine Liberation
17 Organization?

18 A. Independently, yes.

19 Q. And also on March 24, 2002, the day that
20 Esther Klieman was shot, is it also true that Yasser
21 Arafat served as the head of Fatah?

22 A. Correct.

23 Q. Tell the court how many different offices,
24 and I'm talking about a physical office, Yasser Arafat
25 had on March 24, 2002?

1 Now, what were the functions of this
2 national security organization that you just described?

3 A. Preserving national security.

4 Q. And how, from a Palestinian National
5 Authority structural manner, do you define the term
6 "preserving" and specifically the term "national
7 security"?

8 A. I don't know if I am qualified to answer
9 this question.

10 Q. Thank you.

11 We'll ask the security expert tomorrow, and
12 I appreciate your candor, and I hope you don't mind my
13 questions, sir. Thank you.

14 A. Fine.

15 Q. Dr. Abu-Libdeh, earlier I asked you about
16 the office, the headquarters, office of the president
17 of the Palestinian National Authority, Yasser Arafat.

18 Let me ask you whether or not, during the
19 time period 1999 until the death of the late Yasser
20 Arafat in 2004, he maintained a separate office or
21 headquarters for his responsibilities as the head or
22 chairman of Fatah, as distinguished from his
23 responsibilities as the president of the Palestinian
24 National Authority?

25 A. Fatah is run by a body called the Central

1 Committee. And this Central Committee is composed of
2 18 members, has its own headquarters, and Chairman
3 Arafat is the chair of that. So the headquarters of
4 Fatah is the place where the Central Committee has its
5 own headquarters.

6 Q. And at the Central Committee headquarters of
7 Fatah, for the time period 1999 through November 2004,
8 when Yasser Arafat passed away, did the Central
9 Committee of Fatah have an actual address, offices, and
10 building for the Central Committee of Fatah?

11 A. Yes.

12 Q. And in what city was that located for that
13 time period?

14 A. You see, our system is terribly complicated.

15 Q. That's why you're here.

16 A. See, in Gaza they did, they still today, but
17 Hamas occupied it, but they did have headquarters in
18 Gaza and headquarters in Ramallah. But usually, I
19 mean, whenever there is a strong guy, the strong guy,
20 you know, is the headquarters. So in Gaza there was a
21 physical structure called the headquarters of the
22 Central Committee, and in Ramallah there was the same.

23 Q. Was it a different address than the
24 muqata'a, to which you referred earlier when I asked
25 you about the existence of the muqata'a in Ramallah?

1 National Authority?

2 A. Meetings, yes. The meetings, no. Meaning,
3 yes, he did have meetings in the muqata'a, and yes, he
4 did have meetings outside the muqata'a.

5 Q. Thank you.

6 I've asked you about offices for the
7 Palestinian National Authority. I've asked you about
8 offices of Fatah.

9 For the same time period, from 2000 through
10 2004, please tell the court whether or not any separate
11 offices were maintained -- and by "offices" I'm
12 referring to physical headquarters -- for the Palestine
13 Liberation Organization?

14 A. Yes.

15 Q. Did they have a separate office in Ramallah?

16 A. They had two offices, one in Gaza and one in
17 Ramallah.

18 Q. And were they in separate buildings from the
19 offices of Fatah?

20 A. Yes.

21 Q. Were they in separate buildings from the
22 offices of the Palestinian National Authority?

23 A. Yes.

24 Q. Did Yasser Arafat, as the president of the
25 PLO -- and by the way, was that his proper title for

1 BY MR. HEIDEMAN:

2 Q. In your capacity as the designated
3 representative of the Palestinian National Authority,
4 please explain how, during the time period 2000 through
5 2004, Yasser Arafat as the president of the Palestinian
6 National Authority functioned in his position
7 simultaneously as the president of the Palestinian
8 National Authority, and the chairman of the Central
9 Committee of Fatah, and the chairman of the Executive
10 Committee of the PLO?

11 A. These are three separate institutions. Each
12 has its governing body, the Central Committee for
13 Fatah, the government in terms of its ministries and so
14 on, and the Executive Committee of the PLO.

15 He is -- he was the chairman of this
16 Executive Committee because he chairs the Central
17 Committee of Fatah, which is a member of the PLO, who
18 happen to be the largest member of the political
19 parties. And based on this being the largest member of
20 the political parties, they had the right to nominate
21 the chairman of the Executive Committee of the PLO, and
22 they nominated the chairman of the Central Committee of
23 Fatah.

24 As far as the Palestinian National
25 Authority is concerned, Fatah, who is a member of the

1 PLO, run for elections, and they nominated him for
2 office, and he managed to get the necessary votes to
3 become the chairman of the Palestinian National
4 Authority.

5 So basically these three different
6 institutions, each with its independent governance, had
7 only one thing in common, the chairman. But each has
8 its own governance, policies, work, schedule, and all
9 the objectives, whatever it is, but this is the way
10 that he became the one.

11 Q. Thank you.

12 As the common chairman of the Palestinian
13 Liberation Organization and of Fatah, and
14 simultaneously the president of the Palestinian
15 National Authority, for the time period 2000 through
16 2004, and in your capacity as the designated
17 representative of the Palestinian National Authority,
18 please tell the court how Yasser Arafat functioned
19 through his business day separately in those
20 capacities, if he separated his functions and
21 activities?

22 MR. O'TOOLE: Objection to the extent the
23 question asks for testimony not based on the personal
24 knowledge of the witness or personal observation of the
25 witness.

1 that the transcript reflects the accurate spelling and
2 pronunciation of the witness' name.

3 THE WITNESS: Thank you.

4 MR. HEIDEMAN: Is that agreeable?

5 MR. O'TOOLE: We will stipulate to that.

6 MR. HEIDEMAN: Thank you very much.

7 BY MR. HEIDEMAN:

8 Q. Dr. Abu-Libdeh, as the designated
9 representative of the Palestinian National Authority,
10 can you please describe to us, to the extent of your
11 knowledge and observations, the manner in which Yasser
12 Arafat functioned during the course of his business
13 tenure as the common chairman of the Palestine
14 Liberation Organization, chairman of Fatah and
15 president simultaneously of the Palestinian National
16 Authority?

17 A. Based on my own experience, Yasser Arafat
18 wasn't functioning as a CEO of each of them. He was
19 functioning as something like the chairman of the
20 board. So he wasn't really doing the business of
21 managing the micro level functions of each of these
22 independent entities, but rather than having a more
23 remotely styled of management, which could be
24 characterized as the closest you can get to the concept
25 of having -- being the chairman of the board, which is

1 the case, and that the executive functions are carried
2 out independently within each of the organizations.

3 Q. From the time period 2000 through 2004, can
4 you please describe, as the designated representative
5 of the Palestinian National Authority, the manner in
6 which the PA, the PLO, and Fatah conducted the business
7 of the Palestinian National Authority for the time
8 period 2000 through 2004?

9 A. The business of the PNA was conducted of the
10 PNA. Fatah has no direct management or administrative
11 relationship with the PNA. Fatah is a political
12 organization, a member of the PLO, part of the platform
13 of the PLO, who has its policies and strategic
14 objectives, and whose chairman, being the president of
15 the PNA, elected president of the PNA, is making sure
16 that the PNA is in line politically with the policies
17 and the --

18 (Brief exchange in Arabic between the
19 witness and Interpreter Shabib.)

20 INTERPRETER SHABIB: "Lifestyle of the
21 organization."

22 A. Therefore --

23 MS. MATTA: I'm sorry, can I correct the
24 translation? According to the check translator, it
25 would be "the mainstream policies of the organization."

1 MR. HEIDEMAN: That change is accepted.

2 Let's continue your answer, please.

3 A. So there was never and still there is no
4 administrative relationship, horizontally or
5 vertically, between Fatah and the PNA. The only
6 relations or only link with Fatah and the PNA is that
7 Fatah, being a member of the PLO, supports the
8 government of the PNA, as long as this government is
9 implementing the policies, the strategic policies of
10 the PLO.

11 That is to say, today, if Fatah is not happy
12 with the government, they do not -- or at the time,
13 they do not ask the government or request the
14 government or instruct the government, because there is
15 no relationship.

16 The PNA is accountable, the executive
17 order -- the executive branch of the PNA is accountable
18 to the head of government, who is accountable to the
19 Legislative Council, which is part of the PNA.

20 Q. Thank you very much.

21 The answer you just gave and the description
22 you just gave covered the question of the time period
23 of the question of 2000 to 2004.

24 As I understand it, in addition to you
25 serving in your capacity today as the designated

1 A. May 2009 till October 2009.

2 Q. Thank you.

3 Would it be accurate to say that for the
4 time period 2000 through 2005, the Palestinian
5 Authority was and is accountable to the PLO Executive
6 Committee?

7 A. The PNA Executive is accountable to the
8 Legislative Council. The whole of the PNA was created
9 in accordance with the agreements, and is accountable
10 to the PLO as long -- as long or as far as the
11 strategic policies and the political program of the PLO
12 is concerned.

13 The Palestinian National Authority, in
14 accordance with the Basic Law and the Oslo Agreements,
15 is an executive body that functions within the scope of
16 its authority to service the people, and it is
17 requested to be in perfect agreement and harmony with
18 the political program of the PLO. And this is as far
19 as it can get, as far as the relation between the two.

20 Q. Thank you.

21 As the designated representative of the
22 Palestinian National Authority, would you agree with
23 the statement that the PA was made accountable to the
24 PLO Executive Committee?

25 A. The PA?

1 Q. Yes.

2 A. The PLO Executive Committee, being the sole
3 -- or the Executive Committee of the PLO, the sole
4 legitimate representative of the Palestinian people,
5 who entered into interim contractual arrangements with
6 Israel, has founded the PA in accordance with the
7 agreements. And in this regard, the PLO has the full
8 authority to dismantle the PNA or to instruct the PNA
9 in terms of alignment with the political program,
10 objectives, and policies of the PLO, but no executive
11 authority of the PLO over the PNA.

12 Q. Thank you.

13 As the designated representative of the
14 Palestinian National Authority, please advise whether
15 or not the negotiations with the State of Israel are
16 handled by the Palestinian National Authority or the
17 Palestine Liberation Organization?

18 A. Negotiations --

19 MR. O'TOOLE: Objection as to the time
20 frame. I didn't hear a time frame on the question.

21 A. Never mind. Negotiations --

22 MR. HEIDEMAN: No, no, if there is an
23 objection -- thank you, if there is an objection and
24 the judge were to sustain the objection, your answer
25 would be stricken. So that's why I'm trying to both

1 respectfully but carefully listen to the objection, and
2 that's why I often rephrase to avoid it.

3 A. Thank you.

4 Q. Thank you.

5 So can you please explain, for the time
6 period of 1999 through 2005, whether the Palestinian
7 National Authority was responsible for the negotiations
8 with the State of Israel, or whether those
9 responsibilities were in the authority of the Palestine
10 Liberation Organization?

11 A. Please define the word "negotiations."

12 Q. Communications and discussions about issues
13 relating to governance and other functions within the
14 area of the West Bank and Gaza.

15 A. On issues relating to the exercise of the
16 functions and responsibilities of the PNA in accordance
17 with the Oslo Agreements, all communication with the
18 Israeli side is done by the PA. Other communications
19 relating to the final status and the fate of the
20 Palestinian Territory and the fate of the future
21 relations with Israel, that is the function of the PLO.

22 Q. Thank you very much.

23 Was the Palestinian National Authority ever
24 made accountable to the PLO Executive Committee?

25 A. The PNA being made accountable to the

1 Executive Committee of the PLO?

2 Q. Yes.

3 A. The PNA is accountable in the sense of being
4 committed and obliged to function in harmony and
5 agreement with the political framework or the political
6 platform of the PLO, and the strategic policies
7 viz-a-viz the Palestinian people at large.

8 Q. Thank you.

9 What was the function of the Palestinian
10 Authority at the time of its creation in 1993?

11 A. The Palestinian Authority assumed the
12 responsibility and accepted responsibility in the
13 various spheres of life of the Palestinian people for
14 the interim period, which covered the social, cultural,
15 sports, economics, and other attributes of the
16 Palestinian society.

17 Q. Did the function of the Palestinian
18 National Authority, as you just described it, change at
19 any time prior to March 24, 2002?

20 A. The functions, again, are -- are explicitly
21 stated and listed in the Oslo Agreements, and in
22 accordance with the Basic Law, that is consistent also
23 with the Oslo Agreements.

24 Q. You have referred in one of your recent
25 answers to the PNC, if I heard you right.

1 document speaks for it itself. So the objection is to
2 the extent this calls for speculation based on the
3 print-out on the document.

4 Q. If you know, you may answer.

5 A. This is not an agency which is formed or
6 institutionalized by the PNA. This is an agency which
7 is -- now I remember it, which is run by a member of
8 the Executive Committee of the PLO.

9 Q. Thank you very much.

10 A. But it is not an official agency of the PLO,
11 as far as the official structure of the PLO is
12 concerned.

13 Q. Thank you.

14 At any time other than when you were
15 appointed by the Palestine Liberation Organization to
16 the negotiating teams, as you have described at the
17 beginning of your deposition, have you held any
18 position since that time, let's say since 1995, with
19 the Palestine Liberation Organization?

20 A. No.

21 Q. Do you hold any position with the Palestine
22 Liberation Organization as you sit here today?

23 A. No.

24 Q. Thank you.

25

In 2002, what were the jurisdictional

1 boundaries of land governed by the Palestinian National
2 Authority as of March 24, 2002?

3 A. In theory, as I said before, there were Area
4 A, B, and C. Areas A and B is about 40 percent of the
5 total area of the West Bank. The rest is Area C, with,
6 in practice, Area A has been turned by the Israeli side
7 into Area B, which means that in both Area A and B,
8 Israel is exercising an overriding security
9 responsibility for the area.

10 Q. And on March 24, 2002, would it be your
11 testimony, as the designated representative of the
12 Palestinian National Authority, that Israel was
13 exercising the overriding authority over security
14 responsibility?

15 A. Over all the West Bank, yes.

16 Q. Did any of the arms, agencies, departments,
17 or functions of the Palestinian National Authority, as
18 of March 24, 2002, report to the State of Israel, in
19 terms of hierarchical reporting?

20 MR. O'TOOLE: Objection as to the scope in
21 terms of the security forces, but you can answer the
22 question to the extent you can.

23 A. I --

24 Q. I must rephrase. I must rephrase, I'm
25 sorry.

1 coordination wasn't functioning, properly functioning.

2 (Exhibit 20 marked.)

3 Q. Let me give you a document identified as
4 Exhibit 20. This document, Exhibit 20, is a previously
5 produced document of Klieman with a Bates number of
6 01247.

7 Thank you very much.

8 You've previously testified that the
9 Palestine Liberation Organization is the sole
10 legitimate representative of the Palestinian people; is
11 that correct?

12 A. Correct.

13 Q. Would you agree that it is superior to the
14 Palestinian National Authority?

15 A. I agree.

16 Q. Would you agree that the PLO was established
17 in 1964 and recognized as the sole and legitimate
18 representative of the Palestinian people at the Arab
19 Rabat summit in October 1974?

20 A. Agreed.

21 Q. And that until his death, the chairman of
22 the Executive Committee was Yasser Arafat; is that
23 correct?

24 A. Yes.

25 Q. Now, the Palestinian National Authority was

1 A. 88.

2 Q. And was there a speaker on March 24 of 2002
3 of the Palestinian Legislative Council?

4 A. Yes.

5 Q. Who was that?

6 A. Abu Ala.

7 Q. What was the relationship as of March 24,
8 2002, between the Palestinian Legislative Council and
9 the Palestinian National Council of the Palestine
10 Liberation Organization?

11 A. The PLO has decided that any Palestinian
12 elected to the seat of Palestinian Legislative Council
13 will, as long as they are members of the Legislative
14 Council, will be automatically admitted to become
15 members of the Palestine National Council.

16 MR. HEIDEMAN: Can you read back the answer,
17 please, Madam Court Reporter.

18 (Last question and answer read.)

19 THE WITNESS: Can you read this again?

20 THE REPORTER: Yes, sir.

21 (Last answer read.)

22 THE WITNESS: No, no. That is Palestinian
23 Legislative Council.

24 MR. HEIDEMAN: Let there be a stipulation
25 that the word "national" in the first part of that

1 answer should be changed to "legislative council."

2 Is that what you intended, sir?

3 THE WITNESS: Correct, yes.

4 MR. HEIDEMAN: Now with that change, can you
5 read back the answer? Is that agreeable?

6 MR. O'TOOLE: We agree.

7 THE REPORTER: Reading back as amended,
8 counsel?

9 MR. HEIDEMAN: That's correct.

10 (Amended answer read.)

11 THE WITNESS: Correct.

12 BY MR. HEIDEMAN:

13 Q. And the Palestinian National Council is a
14 council of the Palestine Liberation Organization; is
15 that correct?

16 A. Correct.

17 Q. On which all the members of the Palestinian
18 Legislative Council of the PNA sit; is that correct?

19 A. As long as they are members of the PLC.

20 Q. Thank you.

21 Is it true that in accordance with the
22 Palestinian Basic Law, the structure of the Palestinian
23 National Authority was divided into three separate
24 branches of power, the executive --

25 A. Excuse me, I can't concentrate with this

1 ministries, and main offices of the Palestinian
2 National Authority as indicated in this Exhibit 21, and
3 were the people serving in the key positions those
4 people listed in this directory, being Exhibit 21, as
5 of that date?

6 A. This is not an official document issued by
7 the PA. This is a commercially-produced document. I
8 hope it is correct to the last letter of it.

9 Q. Thank you, and I appreciate the precision of
10 your answer.

11 Sir, to the best of your knowledge, did the
12 Palestinian National Authority produce its own official
13 document for the time period of 2002, that set forth
14 the structure of the Palestinian National Authority
15 government and ministries, as well as identifying the
16 people who served in those positions, in any directory
17 form or other format?

18 A. I don't recall seeing one single document
19 being characterized as the official account of the
20 various who-is-who in Palestine.

21 Q. The document that's in front of you, as
22 Exhibit 21, and which was produced to us by your
23 counsel, is it a document, although commercially
24 produced, that was generally in use by the Palestinian
25 National Authority during the year 2002, sir?

1 A. This is a document that has earned trust in
2 terms of the comprehensiveness of what it contains, and
3 it has always been used as a valuable reference to the
4 various government or nongovernment institutions.

5 Q. To the best of your knowledge as the
6 designated representative of the Palestinian Authority,
7 is Exhibit 21 that's in front of you an accurate and
8 comprehensive directory relating to the Palestinian
9 National Authority for the year 2002, subject, of
10 course, to any errors that may exist in names or
11 spelling, or even people who might have changed
12 positions?

13 A. Well, subject to some minor errors that may
14 result in typos or people changing positions, or even
15 people or places not listed, I think this is a fairly
16 comprehensive and accurate document.

17 Q. Thank you very much.

18 Let me hand you what will be marked as
19 Exhibit 22.

20 THE WITNESS: Can we have a break for two
21 minutes?

22 MR. HEIDEMAN: Oh, yes. Let's take a break
23 for five minutes.

24 (Recess taken from 2:59 to 3:09 p.m.)

25 (Exhibit 22 marked.)

1 at any time between 2000 and 2004?

2 A. Yes.

3 Q. When?

4 A. Many times.

5 Q. Did it meet in 2002?

6 A. Yes.

7 Q. Did it meet in June 2002, at which time it
8 adopted various reforms?

9 A. I don't remember the months.

10 Q. Were reforms of the Palestinian Authority
11 adopted by the Palestine Legislative Council in
12 mid-2002?

13 A. Yes, there was this commission who produced
14 some proposals on reforms, which were adopted. I don't
15 know if it was in August, but sometime similar.

16 Q. Prior to the summer of 2002, when the
17 Palestinian Legislative Council met and adopted
18 reforms, when, to the best of your recollection, prior
19 to that had the Palestinian Legislative Council met?

20 A. The Council is supposed to meet every week
21 or two weeks. I don't recall, but I know definitely
22 that they have met, but I don't recall the dates and
23 the number of times.

24 Q. Did the Second Intifada begin in September
25 of 2000, some time period of months after Chairman

1 Arafat left Prime Minister Barak and President Clinton
2 at Camp David?

3 A. The Second Intifada started on the 28th of
4 September, after Sharon entered the al-Aqsa mosque.

5 Q. What is the Arabic word for Second Intifada?

6 A. (Speaking in Arabic.)

7 Q. Can you spell in English for the court
8 reporter the Arabic words for Second Intifada, please?

9 A. Let me write it first. A-L,
10 I-N-T-I-F-A-D-A, al-Intifada.

11 Q. And what do the Arabic words "al-Intifada"
12 mean in the English language?

13 MR. O'TOOLE: Objection as to Dr. Abu-Libdeh
14 serving as a translator from Arabic to English.

15 MR. HEIDEMAN: Of course, I wasn't asking
16 him to serve as a translator, just to spell for the
17 court reporter the Arabic word he used.

18 BY MR. HEIDEMAN:

19 Q. Dr. Abu-Libdeh, please tell the court what
20 was or is the Second Intifada and the meaning of the
21 words "Second Intifada."

22 A. The word "intifada" has no English
23 translation. If you look at Websters or whatever, it
24 comes as is. It is universally accepted as one word in
25 all languages.

1 It describes the popular actions of the
2 Palestinian public against the continuation of the
3 occupation. And now it is used to refer to any actions
4 of protest or objection to something, if it is of
5 popular nature.

6 Q. Thank you.

7 Dr. Abu-Libdeh, please tell the court
8 whether or not the Second Intifada, which you have
9 testified began on September 28th, 2000, please tell
10 the court whether the use of the term "Second Intifada"
11 implies that there was a first or prior Intifada, and
12 if so, what were the dates of the prior Intifada?

13 A. The Second Intifada has started on a Friday,
14 September 28th, 2000, as a popular uprising against the
15 intrusion of Sharon to the al-Aqsa mosque and issuing
16 some statements against the Palestinian interests and
17 against the mosque.

18 It is the second because a few years
19 earlier, and to be exact on December 9th, 1987, a
20 popular uprising, which was called Intifada, has
21 erupted after an Israeli military tank crushed four
22 Palestinians in the Jabaliya Camp. There were some
23 demonstrations. Those demonstrations were met by
24 violent response from the Israeli army, resulting in
25 the deaths of more Palestinians, and that was the

1 beginning.

2 Q. When did the Intifada, in which I'm
3 referring to the First Intifada, begin?

4 A. December 9th, December 9th, 1987.

5 Q. '87?

6 A. Yes.

7 Q. And how long did the First Intifada last?

8 A. There is no official date for the Intifada's
9 end. Because it was a popular action, so there was no
10 -- nobody could tell you the exact date. But we, the
11 Palestinians, assume that the Intifada ended on the
12 date of the convening of the Madrid conference in 1991,
13 October 28th, I think.

14 Q. October what, I'm sorry?

15 A. October 28th, 1991, when the Madrid
16 conference of the negotiations convened. Those active
17 in the Intifada went out to the streets and distributed
18 roses to the Israeli soldiers in our homes and towns
19 and villages.

20 Q. Was there a result of the First Intifada?

21 A. What do you mean by the results?

22 Q. An accomplishment.

23 A. According to history books, yes; the peace
24 process.

25 Q. Thank you.

1 A. They were in their capacity as designated by
2 the PLO to be part of the delegation negotiating with
3 the Israelis.

4 Q. On behalf of the PLO; is that correct?

5 A. On behalf of the PLO, yes.

6 Q. Now, within a few months after Camp David,
7 in the summer of 2000 is when Arik Sharon went to the
8 Temple Mount, and on September 28th, 2000, entered the
9 al-Aqsa mosque; is that correct?

10 A. Correct.

11 Q. And that's what you've indicated is the
12 precise date of the commencement of the Second
13 Intifada; is that correct?

14 A. Correct.

15 Q. When did the Second Intifada end?

16 A. Again, there is -- you know, it didn't start
17 by a decision somewhere and it didn't end by a decision
18 somewhere. There has been concerted efforts by several
19 organs of the Palestinian side to contain the Intifada
20 and bring back the life in the Palestinian territories
21 to normalcy. So if you insist on a date, I would
22 assume that -- probably -- no, oh, boy, it's very
23 difficult. Probably when Mr. Abu Mazen became the
24 prime minister.

25 Because -- you know, it is very interesting,

1 I mean, I think maybe we should talk outside later, you
2 and I. This is not something that somebody was sitting
3 in a room, calculating, and then coming out with an
4 answer, start Intifada, block Intifada. That was not
5 the issue. There were basically a lot of violence in
6 the Palestinian territory, mainly caused by excessive
7 use of force from the Israeli side, responses from many
8 Palestinian individuals and groups, and the Palestinian
9 Authority was trying all the way to contain and bring
10 back to normalcy life there.

11 So if you are looking for a date, you know,
12 with the -- the level of violence started to really
13 become less in 2003. So probably that was somewhere,
14 someday during that year the Intifada practically
15 ended. There was no official announcement of the end
16 of the Intifada, the Second Intifada. There was an
17 official announcement by Yasser Arafat calling upon the
18 Palestinian people to engage in peace and other stuff
19 during the first one, and in 2000 -- the end of 2001, I
20 think there was also a call from Yasser Arafat to our
21 public to really come back to normalcy, but
22 unfortunately he didn't manage to bring it back to
23 normalcy, because soon after that announcement, the
24 Israel raided, I think, Tulkarm, something like this,
25 and killed a few people, and more violence has erupted.

1 Q. So the date I heard you reference as to the
2 end of the Second Intifada, if I understand your
3 testimony correctly, would coincide with the
4 designation of Abu Mazen to become prime minister, and
5 I believe you previously told us that was in March of
6 2003?

7 A. What I said is that there is -- nobody could
8 tell you a date where the Intifada has ended, because
9 there is no clear-cut definition of the end of the
10 Intifada. What I have told you is that there were
11 efforts to bring back normalcy to life, and these
12 efforts, you know, have finally succeeded, to a large
13 extent, in 2003.

14 Q. As the designated representative of the
15 Palestinian Authority, as you sit here today, please
16 tell the court what was the policy of the Palestinian
17 Authority in relation to the Second Intifada, from the
18 time it began in September 28, 2000, until whenever it
19 ended?

20 A. Well, the PA and in general the Palestinian
21 side was of the opinion that this Intifada, which is
22 caused by the Israeli side, is not helping the
23 Palestinian or the Israeli side. This is why the PA
24 was putting much of its efforts to contain this
25 Intifada and defuse it, and bring back normalcy to

1 life.

2 Q. Did the Palestinian National Authority
3 support the Second Intifada at any time during the
4 period from September 28, 2000, through March of 2003?

5 A. The Palestinian National Authority's
6 position or opinion was irrelevant, because this is a
7 civil entity charged with the function of providing the
8 services to the public, protecting the property and
9 maintaining the rule of law. The Intifada was a
10 popular uprising, and those who were leading were the
11 political parties. The PA was trying to protect the
12 lives of the people and the properties of the people.

13 Q. When you say that those who were leading the
14 uprising were the political parties, to whom are you
15 referring?

16 A. I'm referring to al-Jihad and Hamas and
17 the --

18 (Brief comment in Arabic by the witness.)

19 INTERPRETER HAZOU: Liberation --

20 A. Those political factions of the PLO who were
21 calling for popular protest against the excessive use
22 of force from the Israeli side.

23 MS. MATTA: Can we just repeat the
24 translation?

25 (Brief exchange in Arabic between the

1 witness, Interpreter Shabib, and Interpreter
2 Hazou.)

3 INTERPRETER SHABIB: Liberation party.

4 THE WITNESS: This is a religious party.

5 I'm not speaking of -- it's a religious party, some
6 religious party.

7 MR. HEIDEMAN: We'll get the definition
8 later. Let's not take the time now. Note that that's
9 a definition not yet clear in the record as to
10 specifically what is the translation of the Arabic word
11 he has used. We'll come back to this.

12 BY MR. HEIDEMAN:

13 Q. Explain to the court, if you would, which
14 political factions of the Palestine Liberation
15 Organization, as you observed it, from and as you sit
16 here today as the designated representative of the
17 Palestinian National Authority, which political
18 factions of the Palestine Liberation Organization were
19 calling for the use of force in the Second Intifada?

20 A. I can't give you any name. I wasn't saying
21 so. I was saying that all political parties, and even
22 the -- many of the forces of the civil society, were
23 calling for demonstrations and popular expressions of
24 protest against the excessive use of force from the
25 Israeli side. I never used the term "use of force."

1 Q. Well, the record will speak for itself.

2 Tell me this, if you would: Did the
3 Palestinian National Authority provide guns or
4 ammunition or any other type of weapons to anyone in
5 support of the Second Intifada, from the time period
6 beginning September 28, 2000, through whenever it
7 ended, but I'll confine my question to -- from the
8 period of September 2000 through 2005?

9 MR. O'TOOLE: Objection. This is outside
10 the scope of his designation.

11 Q. You may answer.

12 A. Not to my knowledge.

13 Q. Did the Palestinian National Authority
14 provide any monies, directly or indirectly, to anyone
15 in support of the Second Intifada?

16 A. Not to my knowledge.

17 Q. Did the Palestinian National Authority
18 provide to anyone, from the time period of
19 September 28, 2000, through 2005, any training in
20 support of the Second Intifada?

21 A. Not to my knowledge.

22 Q. Is there someone as to these last three
23 issues that I asked you about -- weapons, money,
24 training -- is there someone who might have more
25 knowledge or does have more knowledge than you on these

1 issues?

2 MR. O'TOOLE: Objection. He's designated as
3 a spokesperson on these issues.

4 MR. HEIDEMAN: On security issues, I
5 understand, and that's an answer he can give.

6 A. I want to state for the record that the
7 Palestinian Authority was not inciting anybody, neither
8 encouraging anybody, nor supporting anybody to act on
9 its behalf as an Intifada activist. And I also
10 testified that the PNA was putting much of its efforts
11 to contain the Intifada and to save lives of
12 Palestinians and Israelis.

13 Q. During the time period September 28, 2000,
14 through 2005, Fatah was the majority party in the
15 Palestinian Legislative Council and in the government
16 of the Palestinian National Authority; is that correct?

17 A. Correct.

18 Q. As the designated representative of the
19 Palestinian National Authority, Dr. Abu-Libdeh, can you
20 please tell us whether or not Fatah was one of the
21 political parties that supported the Second Intifada?

22 A. Fatah was one of the political and popular
23 parties who engaged in peaceful demonstrations against
24 the continued excessive use of force from the Israeli
25 side.

1 Q. As the designated representative of the
2 Palestinian National Authority, please tell us and the
3 court when the al-Aqsa Martyrs' Brigade came into
4 existence.

5 A. There was never an agency or institution
6 called al-Aqsa Martyrs' Brigade. The Intifada which
7 started on September 28th, 2000, was called al-Aqsa
8 Intifada, in deference to the place where it was
9 ignited. So we started hearing of this phenomenon
10 probably late 2001. There was no official institution
11 or organization which was referenced as the al-Aqsa
12 Brigades, or whatever it is called.

13 From the date we started hearing about it
14 till the date where the Palestinian Authority succeeded
15 in ending it, that was never referred as an
16 institution, an address, a manager, or, you know, a
17 hierarchy, or a specifically defined mandate or job
18 description.

19 Q. Is the Palestinian National Authority aware
20 that the United States government designated the
21 al-Aqsa Martyrs' Brigade as a foreign terrorist
22 organization?

23 A. Yes.

24 MR. O'TOOLE: Objection as to the scope and
25 as to time frame.

1 MR. HEIDEMAN: I'll rephrase.

2 Q. As the designated representative of the
3 Palestinian National Authority, are you aware, sir,
4 that the United States government officially designated
5 at any time the al-Aqsa Martyrs' Brigade as a foreign
6 terrorist organization?

7 A. Yes.

8 Q. To the best of your knowledge, sir, in what
9 year did that designation actually become official and
10 formal?

11 A. I don't remember.

12 Q. If I suggested to you that that was in March
13 of 2002, would that refresh your recollection?

14 A. No, it doesn't.

15 Q. Would the person designated by the
16 Palestinian Authority on security issues be a better
17 person to ask about that matter than you?

18 A. The answer is maybe.

19 Q. We'll ask. Thank you.

20 A. Please.

21 Q. Dr. Abu-Libdeh, are you telling the court
22 that the al-Aqsa Martyrs' Brigade did not exist on
23 March 24, 2002?

24 A. I'm telling the court that there is no
25 institution or agency which is called al-Aqsa Martyrs'

1 Brigades. There is a phenomenon where several groups
2 of persons, ranging from two to nine to three to four
3 to whatever, who were calling themselves the al-Aqsa
4 Martyrs' Brigades, not necessarily connected with each
5 other. We -- "we" as general public -- started hearing
6 of this phenomenon, I believe, the end of 2001, when
7 somebody was killed in Tulkarm on the West Bank, and it
8 was reported in the media that this person is al-Aqsa
9 Martyrs' Brigades then.

10 Q. As the designated representative of the
11 Palestinian Authority, can you please tell the court
12 whether or not any money or other support of any kind
13 or nature was provided by the Palestinian National
14 Authority to the al-Aqsa Martyrs' Brigade or its
15 members for the time period leading up to and including
16 March 24, 2002, the day on which Esther Klieman was
17 killed?

18 A. The PNA did not have any relations with
19 al-Aqsa Martyrs' Brigade, or Brigades. The Palestinian
20 budget was very clear and very well monitored by the
21 international community. So there is no budget line in
22 the Palestinian National Authority's budget that was
23 designated to fund this phenomenon, which again, I'm
24 emphasizing that it was not an institution, but it was
25 private, then a phenomenon, resulting from an increased

1 interference and abuse of the popular uprising by
2 external forces, external to the Palestinian cause, who
3 chose to settle some of their own issues, internal or
4 external, at the expense of the Palestinian side.

5 Q. Do you know a person, sir, by the name of
6 Marwan Barghouti?

7 A. Yes.

8 Q. And did you know Marwan Barghouti in March
9 of 2002?

10 A. Yes.

11 Q. For how long have you, sir, known Marwan
12 Barghouti?

13 A. For many years.

14 Q. Decades?

15 A. Yes.

16 Q. And he too is, although presently
17 incarcerated, he too is a member of Fatah; is that
18 correct?

19 A. Correct.

20 Q. On March 24, 2002, the day on which Esther
21 Klieman was killed, was Marwan Barghouti an activist
22 leader with Fatah?

23 A. He was a member of the Palestinian
24 Legislative Council and a member of the Revolutionary
25 Council of Fatah, which is the parliament of Fatah.

1 the Palestinian National Authority, other than the
2 monthly salary you testified that he was receiving
3 pursuant to his election as a member of the Palestinian
4 Legislative Council in 1996?

5 A. I don't know.

6 Q. Is there any name of any person,
7 Dr. Abu-Libdeh, known to you in your capacity as the
8 official designee of the Palestinian National
9 Authority, who was a leader, activist with, or
10 supporter of the al-Aqsa Martyrs' Brigade on March 24,
11 2002, the day in which Esther Klieman was killed?

12 A. I am not sure if any of the names I know was
13 at that time an activist of any of al-Aqsa Martyrs'
14 Brigades.

15 Q. If you think the names you know may have
16 been activist with the al-Aqsa Martyrs' Brigade, we
17 will accept the fact that you don't know with definity
18 (sic), but as the designated representative of the
19 Palestinian National Authority, please tell us what
20 names you think may have been affiliated on March 24,
21 2002, with the al-Aqsa Martyrs' Brigade?

22 MR. O'TOOLE: Can I object to the vagueness
23 of the question and ask for specificity as to whether
24 or not the designee knew at the time, or whether the
25 question is based on knowledge as to knowledge after

1 the fact.

2 Q. You may answer the question as presented.

3 A. So first of all, you keep referring to
4 al-Aqsa Martyrs' Brigade, and I keep telling you
5 there's nothing called al-Aqsa Martyrs' Brigade. It's
6 al-Aqsa Martyrs' Brigades, reflecting the fact that
7 this was a phenomenon, several groups ranging from two
8 to 49 or seven or three or 15, acting with motives, not
9 necessarily homogeneous motives, many connected with
10 outside players, outside-the-country players. So it's
11 al-Aqsa Martyrs' Brigades.

12 I knew people later, but I don't know if
13 these people were at that time classified as part, part
14 of any of the groups who were generically referred to
15 as members of al-Aqsa Martyrs' Brigades.

16 Q. Thank you.

17 You previously testified that -- I believe
18 you said in late or maybe even in the end of December
19 of 2001, the Palestinian National Authority learned of
20 the existence of the al-Aqsa Martyrs' Brigades. And so
21 now I ask you, as the official designee of the
22 Palestinian National Authority, what the Palestinian
23 National Authority learned in late 2001 about the
24 al-Aqsa Martyrs' Brigades?

25 A. I did not say that the Palestinian National

1 Authority started to learn about this phenomenon. I
2 said "we" started to learn. As a citizen of this
3 country, I read about it in the newspapers, and I
4 started learning about it, and later, when I assumed
5 some of my capacity, I spent some of my own time trying
6 to defuse it.

7 Q. As you sit here today as the official
8 designee of the Palestinian Authority, please tell the
9 court what the Palestinian National Authority knew in
10 2001 and at any time prior to March 24, 2002, the day
11 on which Esther Klieman was killed, what did the
12 Palestinian National Authority know about the al-Aqsa
13 Martyrs' Brigades?

14 A. Basically that this is a phenomenon where
15 groups of people started to resort to use of force as
16 an expression of resisting the Israeli occupation,
17 groups that are scattered across the rural areas of the
18 West Bank; some connected with Iranians, some connected
19 with Syrians, some connected with Hezbollah, some
20 connected even with the Iraqis of Saddam Hussein. But
21 we didn't have concrete information about a structured
22 agency called al-Aqsa Martyrs' Brigades.

23 Q. Thank you. Of course, I will be pursuing
24 this tomorrow with the security designee --

25 A. Yes.

1 Q. -- of the Palestinian National Authority,
2 so the question I'm about to ask you excludes the
3 security area issues.

4 As it relates to any other governmental
5 entity, arm, agency, department, or activity of the
6 Palestinian National Authority, as you sit here today
7 as the designee of the Palestinian National Authority,
8 what, to the best of your knowledge, did the
9 Palestinian National Authority do relating to the
10 al-Aqsa Martyrs' Brigades for the time period 2001
11 through 2004?

12 A. I can testify on the period summer 2003
13 onward. There was a concerted effort from the
14 Palestinian Authority to contain and defuse and end
15 this phenomenon, and there was an extensive effort to
16 identify and neutralize this phenomenon, which we
17 understood as the Palestinian National Authority is a
18 phenomenon manipulated mostly by external forces and
19 maybe internal conflicting agendas, but at the end of
20 the day is not serving the national interest of the
21 Palestinian people.

22 The Palestinian Authority has tried to
23 understand the motives of each of these groups,
24 coordinated with the Israeli side to find ways where
25 these groups could be neutralized, and negotiated with

1 with Israel, agreed through which those members of
2 groups who accept to refrain from violence, refrain
3 from, you know, receiving instructions from the players
4 outside Palestine or refrain from participating in any
5 acts of violence, to be reintegrated in the Palestinian
6 society, in exchange for committing not to use violence
7 and not to be part of any violent activities against
8 the Israeli army or citizens.

9 Q. From the time you became the bureau chief
10 for the prime minister of the Palestinian National
11 Authority and for any time thereafter, did anyone on
12 behalf of the Palestinian National Authority, and I ask
13 you as the designee of the PA, did anyone prepare any
14 written report in any ministry, or agency, or
15 governmental department, or function of the Palestinian
16 National Authority, relating to the activities of the
17 al-Aqsa Martyrs' Brigades?

18 A. That wasn't the function of any PA ministry
19 or agency, and I don't know of any report as such.

20 Q. And the question that I just asked commenced
21 with, from a time point of view, the time when you
22 became the bureau chief of the prime minister's office.
23 Let me ask the same question for the time period from
24 2000 through 2005.

25 To your knowledge, was any report or writing

1 of any kind or nature created by anyone on behalf of
2 the Palestinian National Authority, relating to the
3 al-Aqsa Martyrs' Brigades?

4 A. I haven't seen any.

5 Q. Thank you.

6 Among the various capacities that Yasser
7 Arafat held, could you please tell the court, as the
8 official designee of the Palestinian National
9 Authority, whether or not he was the commander-in-chief
10 of the Palestinian security forces?

11 A. This is a correct statement.

12 Q. Sir, what knowledge, if any, do you, on
13 behalf of the Palestinian National Authority, have
14 relating to the arrest, charging, conviction, and/or
15 imprisonment of those persons charged with and
16 presently incarcerated in the Israel Prison Services,
17 having been charged with killing, on March 24, 2002,
18 Esther Klieman?

19 A. I have known about the details of this case
20 from the review of the documents that were presented to
21 me in preparation for this.

22 Q. What is known to you as the designee of the
23 Palestinian National Authority, and therefore on behalf
24 of all of the Palestinian National Authority, please
25 tell the court what is known to the Palestinian

1 the notice. But to the extent he knows, he can answer.

2 A. He's in prison.

3 Q. Does the Palestinian Authority, and I ask
4 you as the designee, do you know for what charges he's
5 in prison?

6 A. I haven't really cared to know today.

7 (Exhibit 23 marked.)

8 Q. Thank you very much.

9 Let me hand you a document that is
10 Exhibit 23, and ask if you could please look at this
11 document, which bears Bates number Klieman 01268
12 through 01270, and ask if that listing of the
13 Palestinian National Authority government for the time
14 period 1998 through 2001 appears to be accurate, as to
15 the ministries and ministers for that time period?

16 MR. HEIDEMAN: Off the record for ten
17 seconds.

18 (Discussion off the record at 4:29.)

19 (Interpreter Shabib left the room.)

20 MR. HEIDEMAN: Back on the record.

21 A. I believe, to the best of my knowledge, this
22 is an accurate piece of information as far as the names
23 of the ministers and the ministries they are assuming.

24 Q. Thank you.

25 As you recall, Dr. Abu-Libdeh, for the year

1 of 2002, was there any particular ministry of the
2 Palestinian National Authority government with which
3 Marwan Barghouti was affiliated?

4 A. No.

5 Q. To the best of your knowledge, sir, did
6 Marwan Barghouti in the year 2002 perform any functions
7 for the Palestinian National Authority, except in his
8 capacity as a member of the Palestinian Legislative
9 Council? And I ask you this as the designated
10 representative of the Palestinian National Authority.

11 A. No.

12 Q. Please tell the court what, to the best of
13 your knowledge as the designated representative of the
14 PA, was the area of work and expertise of Marwan
15 Barghouti for the time period including March 24, 2002,
16 when Esther Klieman was killed?

17 A. He was a member of the Legislative Council.

18 Q. And what was his work assignment in March
19 2002 as a member of the legislative -- Palestinian
20 Legislative Council?

21 A. I don't remember.

22 Q. Thank you.

23 And as the designated representative of the
24 PA, you're telling the court that Marwan Barghouti had
25 no other responsibilities on behalf of the Palestinian

1 National Authority in March of 2002, except as a member
2 of the Palestinian Legislative Council?

3 A. To the best of my recollection.

4 MR. O'TOOLE: At this point the same
5 objection; Marwan Barghouti is not mentioned in the
6 notice. So to the extent the designee has information
7 on it, he can answer, but he's not designated for that
8 purpose.

9 MR. HEIDEMAN: And he's answered not to his
10 knowledge. Thank you.

11 BY MR. HEIDEMAN:

12 Q. I will ask you to turn to page 21 of
13 Exhibit 21, being the 2002 directory to which we
14 referred earlier, and please look specifically at page
15 21, under the section that says "Ramallah district."
16 The subheading for this, do you see that?

17 A. Yes.

18 Q. This subheading for this above "Ramallah
19 district" is the heading of "PLC members"; is that
20 correct? Back on page 19?

21 A. Yes.

22 Q. And the further larger heading above that on
23 page 19 is "PLC" for Palestinian Legislative Council;
24 is that correct?

25 A. Correct.

1 Q. Thank you.

2 Tell the court whether or not, as the
3 designee of the Palestinian Authority, Marwan Barghouti
4 is continuing, even to the current time, as a member of
5 the Palestinian Legislative Council?

6 A. Yes.

7 MR. O'TOOLE: I just want to note for the
8 record, he is not the designee on those issues,
9 Mr. Jadallah was. But to that extent, I object to the
10 phrasing of the question.

11 Q. And earlier in your testimony you referred
12 to police and security matters. There are various
13 police and security functions and agencies listed in
14 this Exhibit 21, on Bates page 66 and 67; is that
15 correct? And are those --

16 A. Where is --

17 Q. -- organizations that existed back at that
18 time?

19 A. Excuse me, where is Bates 66?

20 Q. I'm sorry, page 24 and 25.

21 A. Repeat the question, please.

22 Q. Yes.

23 This directory, on pages 24 and 25, lists
24 various different police and security agencies of the
25 Palestinian Authority; is that correct?

1 2001, or 2002, take any action, sir, and I ask you as
2 the designated representative of the Palestinian
3 Authority, did they take any action as a result of
4 learning of the existence of the al-Aqsa Martyrs'
5 Brigades?

6 MR. O'TOOLE: And objection as to the
7 characterization of the designation as the designee of
8 the Palestinian Authority, because it's a limited
9 designation.

10 MR. HEIDEMAN: I'll rephrase the question.

11 Q. As the designee of the Palestinian
12 Authority, can you please tell the court whether or not
13 the government or cabinet of the Palestinian Authority
14 took any action in 2000, 2001, or 2002, as a result of
15 learning of the existence of the al-Aqsa Martyrs'
16 Brigades?

17 A. I was not part of the cabinet; I wouldn't
18 know.

19 Q. Thank you.

20 From the time you became the cabinet
21 secretary from 2003 until you left in 2005, did the
22 Palestinian National Authority, its government, or the
23 cabinet, take any action as a result of having learned
24 of the existence of the al-Aqsa Martyrs' Brigades?

25 A. Yes.

1 Q. What action was taken?

2 A. It was decided to have a concerted effort to
3 end this phenomenon, and to coordinate through the
4 Israeli side, and agree on a package of incentives that
5 will effectively help the Palestinian Authority succeed
6 in neutralizing this phenomenon.

7 Q. Thank you.

8 In 2002, how many -- you've already
9 testified that there were 88 members of the Palestinian
10 Legislative Council; is that correct?

11 A. Correct.

12 Q. Did the Palestinian Legislative Council, at
13 any time from September 2000 through 2005, take any
14 action relating to having learned of the existence of
15 the al-Aqsa Martyrs' Brigades?

16 A. The Legislative Council has no authority on
17 matters that are not directly related to its powers and
18 responsibilities. The Legislative Council was always
19 calling on establishing law and order again in the
20 Palestinian territories.

21 Q. I couldn't hear the last part of the answer,
22 I'm sorry?

23 A. The Legislative Council was always calling
24 on the PA and the various political factions to end and
25 to support and help end this phenomenon, in its

1 capacity as a regulator, where the law and order,
2 because of the weakening of the PA, has deteriorated,
3 and that affected very negatively the security of the
4 Palestinian civilians.

5 Q. Thank you very much.

6 As it relates to the Palestinian
7 Legislative Council, when they take action, is it
8 majority rule or some measurement other than 50 percent
9 plus one?

10 A. It functions out of its own bylaws. It is
11 -- sessions are legal if 51 percent are there. Once
12 the session convenes, it's the majority of those who
13 are present.

14 Q. So a quorum is 50 percent?

15 A. 50 percent plus.

16 Q. 50 percent plus?

17 A. Yes.

18 Q. And then once there's a quorum, it requires
19 50 percent of those present and voting --

20 A. Correct.

21 Q. -- to adopt; is that correct?

22 A. Correct.

23 Q. Thank you.

24 A. Not on all matters, of course. There are
25 certain matters, by law, that need two-thirds of the

1 For the time period 2000 through 2005, to
2 what extent did the Palestinian National Authority
3 coordinate its activities with the PLO in relation to
4 issues of civil administration, finance, foreign
5 affairs, and to the extent you can answer it, security?

6 MR. O'TOOLE: Again, objection to the scope.

7 Q. You may answer.

8 A. The PLO has no business in dealing with the
9 day-to-day affairs of the Palestinian population of
10 West Bank and Gaza. The PLO represents the whole of
11 the Palestinian people everywhere.

12 The civil affairs of the population of the
13 West Bank and Gaza is managed by the PA, on the basis
14 of the mandate given by the Oslo Agreements and the
15 program that the cabinet and the vote of confidence on
16 that basis. And this is also true for finance, with
17 one exception. In the finance matters, and in the
18 context of the reforms that were approved by the
19 Legislative Council in 2002, it was internationally
20 agreed that the single treasury account is established
21 and that the direct authority of the finance ministry,
22 where the budget is executed out of that ministry.

23 The foreign affairs is not a portfolio which
24 is part of the mandate of the PA. The foreign affairs
25 is a function of the PLO. And the security, the

1 internal security is the under the direct mandate of
2 the PA.

3 Q. Thank you.

4 You referred to reforms in 2002. Was that
5 referred to as the "100-day plan for reforms"?

6 A. I'm referring to a whole process of reforms,
7 including the 100-day plan.

8 (Exhibit 27 marked.)

9 MR. HEIDEMAN: Yes. Let me hand you what's
10 been marked as Exhibit 27, which bears Klieman 01246,
11 and while you're looking at that document, counsel has
12 a comment.

13 MR. O'TOOLE: Can we take a short break?
14 Mr. Eustice needs to go to another appointment.

15 We're working six and-a-half hours at this
16 point.

17 (Mr. Eustice exited the proceedings.)

18 (Recess taken from 5:06 to 5:16 p.m.)

19 BY MR. HEIDEMAN:

20 Q. I believe when we broke I was asking about
21 the 100-day plan for reforms.

22 Can you tell the court, please, as to those
23 reforms adopted in 2002, did any of those reforms
24 relate to issues involving or arising out of the Second
25 Intifada?

1 Oslo Agreements, Fatah is the main pillar of the
2 Palestinian Authority ..."

3 Would you agree with that statement?

4 A. Say it again, please?

5 Q. "Since the Oslo Agreements, Fatah is the
6 main pillar of the Palestinian Authority ..."

7 Would you agree with that statement?

8 A. Let me read.

9 I am not sure that this means that the
10 Palestinian Authority is the Fatah organization. Many
11 members affiliated with Fatah happen to be employees of
12 the PA, just like many independent and many other
13 employees who are affiliated with other political
14 parties.

15 Q. You previously testified that Marwan
16 Barghouti was a member of Fatah; is that correct?

17 A. Correct.

18 Q. And is it accurate, sir, as the designee of
19 the Palestinian National Authority, that from September
20 2001, Marwan Barghouti was the object of a warrant for
21 arrest by the State of Israel?

22 A. Yes.

23 Q. Thank you very much.

24 As the designee of the Palestinian National
25 Authority, sir, can you tell the court whether or not

1 the al-Aqsa Martyrs' Brigades is an arm of or was,
2 during the period 2000 through 2005 or any portion
3 thereof, an arm of Fatah?

4 A. I said before, al-Aqsa Martyrs' Brigades was
5 never an institution and was never a singular entity to
6 be designated as such.

7 Q. Does the name Hussein al-Sheikh represent a
8 person known to you, as the designee of the Palestinian
9 Authority?

10 A. Yes.

11 Q. And was he, from the period 2000 through
12 2005, a senior Fatah leader?

13 A. Yes.

14 Q. And are you aware, sir, that he has
15 acknowledged Fatah's control over the al-Aqsa Martyrs'
16 Brigades?

17 MR. O'TOOLE: Objection, lack of foundation,
18 assumes facts.

19 Q. If you know, you may answer.

20 A. I don't know.

21 Q. Thank you.

22 Are you familiar with a person, and I hope
23 I pronounce it right, Maslama Thabet?

24 A. No.

25 Q. As the Palestinian National Authority, sir,

1 and as its designee, please tell the court whether or
2 not the PA is aware of any statements that have been
3 made relating to the al-Aqsa Martyrs' Brigades being an
4 integral part of Fatah, and that the al-Aqsa Martyrs'
5 Brigades commander is Yasser Arafat himself?

6 MR. O'TOOLE: Objection, assumes facts not
7 in evidence, speculation.

8 A. The PA deals with the facts, legal matters,
9 documented evidence. Many people could say many
10 things. None of these will bind the PA or reflect the
11 way it works.

12 Q. As the designated representative of the
13 Palestinian Authority, sir, is the Palestinian
14 Authority aware of any statements that have been made
15 by anyone attributing to Yasser Arafat that he is the
16 commander, was the commander in 2002, of the al-Aqsa
17 Martyrs' Brigades, and further, indicating that the
18 al-Aqsa Martyrs' Brigades is an integral part of Fatah?

19 A. I do not know of any evidence presented to
20 the PA suggesting that this is a true statement.

21 Q. Thank you very much.

22 As the designee of the Palestinian
23 Authority, can you please tell the court what is the
24 employees' directorate within the PNA structure?

25 A. What do you mean? I don't understand. What

1 Q. And was that part of the reforms in the
2 summer of 2002?

3 A. True.

4 Q. Prior to that time, sir, please tell the
5 court as the designated representative of the PA
6 whether or not money was spent not from a single
7 treasury account, but rather from multiple accounts
8 handled by multiple people in multiple ministries?

9 MR. O'TOOLE: Again, objection as to outside
10 the scope. The designee was presented on those issues
11 yesterday.

12 Q. You may answer.

13 A. I don't have anything to add.

14 Q. I couldn't hear the answer.

15 A. I -- I don't have anything to add.

16 Q. Thank you.

17 So the unification of accounts into the
18 single treasury account of the PA, if I understand your
19 last answer, occurred pursuant to the reforms in the
20 summer of 2002; is that correct?

21 A. Yes.

22 Q. Thank you.

23 Did anyone on behalf of the Palestinian
24 National Authority, and I ask you as its designee, have
25 any oversight over monies distributed by the

1 Palestinian Authority to Fatah?

2 MR. O'TOOLE: Again, outside the scope.
3 There was a designee yesterday on this topic.

4 Q. You may answer to the extent you know.

5 A. The unification of these accounts resulted
6 in moving the responsibility of disbursing the
7 allocations to the political parties, from the PLO to
8 the PNA. So the PNA, out of its own revenues, has
9 allocated -- is allocating on an annual basis a line in
10 the budget for the PLO, where the PLO decides what
11 parts of that line go to which party, on the basis of
12 the internal relationships within the PLO.

13 Q. Yes, thank you. Let me drill down to a
14 precise question.

15 As the designee of the Palestinian National
16 Authority, can you tell the court whether or not anyone
17 on behalf of the Palestinian National Authority was a
18 representative of the government to Fatah?

19 A. There was no need for this to happen,
20 because the PNA and Fatah didn't have direct
21 administrative or management relations.

22 Q. Was there anyone on behalf of the PA who
23 oversaw any of the activities of Fatah in order to
24 measure what it was doing with the money that it
25 received from the budget of the Palestinian National

1 when acting in his official capacity?

2 MR. O'TOOLE: Objection. Outside the scope.

3 Q. You may answer.

4 A. He wasn't designated at any time to speak
5 for the Palestinian Authority or elsewhere --

6 Q. I'm sorry?

7 A. -- or on its behalf.

8 Q. Thank you.

9 What were the policies in 2000 to 2005
10 regarding persons employed by the Palestinian National
11 Authority having the authority to speak on behalf of
12 the Palestinian National Authority?

13 A. In the Palestinian context, people have
14 freedom of expression, not necessarily designated by an
15 authoritative address, to speak on matters related to
16 the Palestinian Authority.

17 MR. HEIDEMAN: Can you read back the answer,
18 Madam Court Reporter?

19 (Last answer read.)

20 MS. MATTA: And the question, while we're at
21 it, please.

22 (Last question read.)

23 MR. HEIDEMAN: Thank you very much.

24 BY MR. HEIDEMAN:

25 Q. Can you please tell the court, as the

1 media spokesman for Yasser Arafat.

2 A. I don't recall this name at all.

3 Q. Thank you. If that information is obtained,
4 whatever the answer is, if you'll advise your counsel,
5 we would appreciate it.

6 A. I will talk to counsel.

7 MR. O'TOOLE: That's fine.

8 Q. We inquired of the witness yesterday about a
9 name that I don't believe he knew, but let me ask you,
10 and of course my spelling may also be wrong, of Abdel
11 Fattah Hamayel?

12 A. I know the person.

13 Q. Can you tell the court what were his areas
14 of responsibility with the Palestinian National
15 Authority in the period 2000 to 2005, if you know?

16 A. 2000 to the middle of 2003, he was a member
17 of the Legislative Council. Then when Abu Mazen's
18 cabinet was formed, he became a minister without
19 portfolio, and he was, in fact, charged with the job of
20 neutralizing the phenomenon of the al-Aqsa Brigades.

21 And after the resignation of Abu Mazen -- I don't even
22 remember if he was in our cabinet. Sorry. Was he in
23 our cabinet? I don't remember.

24 Q. Thank you.

25 In relation to Abdel Fattah Hamayel, when

1 you use the term that he was a minister without
2 portfolio for Abu Mazen, but further, that he had the
3 responsibility of, quote, "neutralizing the phenomenon
4 of the al-Aqsa Martyrs' Brigades," unquote, what do you
5 mean by the use of the word "neutralizing," and
6 separately, what do you mean by the use of the word
7 "phenomenon"?

8 A. We'll start with the "phenomenon."

9 Q. Yes, sir.

10 A. As I said many times, al-Aqsa Martyrs'
11 Brigades was some kind of a synonym to groups of
12 people, some connected with outside sources, who
13 pretended to be using violent means to protest the
14 Israeli occupation, mostly not structurally connected,
15 many becoming, you know, just independent groups acting
16 on their own, and many receiving their financials and
17 supplies from outside sources. So this is the
18 phenomenon.

19 Neutralizing, he -- this was after a lengthy
20 discussion with the Israeli side, it was agreed to have
21 joint efforts to pacify and take these people out of
22 this phenomenon, to resume their normal life in
23 exchange for, first, you know, guaranteeing some source
24 of minimum ability to live, financial income; and on
25 the other hand, guarantee with the agreement of Israel

1 to agree that they will not be recordated (sic). In
2 exchange for this, they will sign some sort of -- what
3 is it --

4 (Brief comment in Arabic by the witness.)

5 INTERPRETER HAZOU: "Pledge."

6 A. Pledge not to go back to that, and if they
7 have any rifles or weapons, to give them up. And
8 during that duty they went left and right, all over the
9 West Bank, searching for these people, and cases where
10 he found some, he started a dialogue with them, and for
11 much of the time, he succeeded.

12 Q. Thank you.

13 When was it that the Palestinian National
14 Authority gave the responsibilities to Abdel Fattah
15 Hamayel to, quote, neutralize the phenomenon of the
16 al-Aqsa Martyrs' Brigades?

17 A. Again, the Palestinian National Authority
18 didn't have any authority on this phenomenon. This is
19 a phenomenon of people, you know, groups of people,
20 literally deciding to take matters into their own
21 hands. So he was chosen because he represented Fatah
22 as a Legislative Council member. He himself, during
23 the First Intifada, was an activist.

24 So the cabinet, the prime minister of the
25 time, Abu Mazen, in agreement and coordination with

1 Yasser Arafat, charged them with this. It wasn't a
2 cabinet decision, because the cabinet has no authority
3 on this phenomenon. The only relation between this
4 phenomenon and the cabinet is that the cabinet, had it
5 been able to impose law and order, would have been
6 imposing law and order on these people.

7 But at the time the Palestinian Authority
8 was extremely weakened by the Israeli aggression
9 against it, and against the security forces, and
10 against, you know, against all its functions, including
11 limiting its ability to move its police force. So that
12 person was assigned to -- he's a trusted man, known in
13 the country. A trusted man. So they assigned him to
14 be the messenger for this kind of deal: Give up your
15 current activity, then you get amnesty from the Israeli
16 side, you know, and some sort of a financial way of
17 living will be guaranteed.

18 Q. Thank you.

19 One last question on this person, and then I
20 have only one other area and we'll be ready to wrap for
21 the day, for which we thank you for your time and your
22 answering of questions.

23 The assignment, then, to Abdel Fattah
24 Hamayel to perform the services you've just described,
25 if I understand correctly, came from Abu Mazen at the

1 time he was prime minister, with the support and
2 concurrence, if I understand correctly, of President
3 Arafat of the Palestinian National Authority; is that
4 correct?

5 A. Correct, but, plus, with the consent and
6 support of the Central Committee of Fatah.

7 Q. Thank you.

8 And why, in that regard, was the consent
9 and support of the Central Committee of Fatah required
10 in relation to this particular assignment to Abdel
11 Fattah Hamayel?

12 A. Because at the time, the Central Committee
13 of Fatah was of the opinion that this phenomenon is a
14 very negative phenomenon when it comes to the mandate
15 of the Fatah's organization as a political party, and
16 that this phenomenon is hurting the infrastructure plus
17 the people. So the Central Committee of Fatah was
18 working hard to find ways where this phenomenon could
19 be stopped.

20 Q. Thank you very much. Let me move to what I
21 believe is the last area. Just one second. Just
22 before I asked you about this one area.

23 A. I assume we have this seven hour stop, too.

24 MR. HEIDEMAN: Yes, we're just about
25 finished. Off the record.

1 be returned to society?

2 A. Yes.

3 MR. HEIDEMAN: Thank you very much. One
4 moment, please.

5 MR. O'TOOLE: I think we're over seven hours
6 at this point.

7 MR. HEIDEMAN: I think we're done. I have
8 nothing further. I simply do have one quick point, and
9 then you may have questions and I won't delay you.

10 I want to express to you, Dr. Abu-Libdeh,
11 my appreciation for your patience and your time and
12 your forthrightness in answering questions here today.

13 THE WITNESS: Thank you.

14 MR. HEIDEMAN: Yes, sir.

15 MR. O'TOOLE: Thank you also,
16 Dr. Abu-Libdeh, from our side, and I hope not to press
17 your patience for very much longer. I only have a few
18 areas that I would like to try and clarify.

19 EXAMINATION

20 BY MR. O'TOOLE:

21 Q. You were asked a series of questions about
22 the Palestinian Authority's policies from 1994 all the
23 way up through the present, and one of those areas
24 involved the Palestinian Authority's policy with
25 respect to what was described as the Second Intifada.

1 What, in your experience as part of the
2 Palestinian Authority since 1994 through the present,
3 what was the Palestinian Authority's policy regarding
4 the use of violence and the use of force as part of
5 resistance in the Second Intifada or at any other time?

6 A. It has always been a standing policy that
7 these actions are not only counterproductive, but they
8 will harm our cause and our ability to reach a peaceful
9 solution on the basis of which the two-state solution
10 will be preserved.

11 Q. And since you were asked the series of
12 questions about the PLO policies, recall in that time
13 frame what was the policy of the Palestine Liberation
14 Organization during the time frame 1994 through 2010,
15 including the time frame of the Second Intifada, with
16 regard to the use of force as a form of resistance?

17 A. The PLO has denounced violence in 1988 and
18 announced its commitment to the two-state solution with
19 a Palestinian state on the borders of 1967 will be
20 established as a result of the negotiations with
21 Israel. That is peaceful. And on the basis of this,
22 the PLO has engaged in the peace process to reach the
23 conclusion through which peace is signed between Israel
24 and the PLO, to establish the Palestinian state in the
25 borders of 1967. And the policies since then have been

1 policies of having peace and the strategic option, and
2 not being party to any use of force to solve the
3 Palestinian question.

4 And this is why the PNA, being mandated to
5 run the affairs of the Palestinian people inside the
6 West Bank and Gaza, was not only mandated by the Oslo
7 Accords regarding powers and responsibilities, but also
8 mandated by the PLO, to see to it that Palestinian
9 institutions are described and governed and practiced
10 in accordance with this strategic option.

11 Q. And I wanted to ask you a follow-up question
12 about that.

13 So I guess what you said was that under
14 Oslo, under the Oslo Agreements -- who was the Oslo
15 Agreement between, again?

16 A. The Oslo Agreement was signed between the
17 PLO and Israel, and this Oslo Agreement is an interim
18 agreement through which -- through negotiations, a
19 Palestinian state will emerge next to the State of
20 Israel, on the basis of the Security Council
21 resolutions 242 and 338.

22 Q. Why, as part of the Oslo Agreements, was the
23 Palestinian National Authority required to be
24 accountable to what you described as the policies of
25 the Palestinian Liberation Organization? What was the

1 concern that led to that?

2 A. Because the PLO was committed to the
3 two-state solution and to the program which was
4 approved in the year 1988, which is a program based on
5 reaching a solution through negotiations. The PA,
6 which is a subsidiary which was created by these
7 agreements, cannot really invent policies that are
8 contrary to the spirit and contractual arrangements
9 between the PLO and Israel.

10 Therefore, the PNA cannot, out of the blue,
11 come out and, let's say, withdraw recognition of Israel
12 or announce policies that are contrary to the policies
13 and political program of the PLO, which is based on the
14 work towards the two-state solution through
15 negotiations.

16 Q. And I think you mentioned earlier also that
17 many of the members of the Palestinian National
18 Authority were elected; is that correct?

19 A. Yes.

20 Q. The Legislative Council is elected?

21 A. They were elected directly by the people.

22 Q. There were presidential elections?

23 A. Through the presidential and legislative
24 elections. We had one in 1996 where the president was
25 elected and the Legislative Council, and we had another

1 one in 2005 where the president was elected after the
2 death of Yasser Arafat, and then in 2006 we had
3 legislative elections.

4 Q. And under Oslo, what would happen if a
5 political party ran for election on a party that was
6 counter to the principles of Oslo?

7 A. They cannot.

8 Q. What would --

9 A. They cannot.

10 Q. What would happen if Hamas would run for
11 election and try to win and try to change the terms of
12 the Oslo Agreement?

13 A. They cannot.

14 Q. Why is that?

15 A. Because the elections were stipulated by an
16 agreement between the PLO and Israel, and the scope and
17 content of these elections have to be consistent,
18 totally consistent with the Oslo Accords. This is, in
19 fact, why we're having the current problems with Hamas,
20 because after being elected, they tried to bypass the
21 Oslo Agreements.

22 Q. Thank you.

23 Now, you were discussing in some of the
24 responses to questions some of the policies of the
25 Ministry of Finance of the Palestinian National

1 issue?

2 A. No.

3 MR. HEIDEMAN: Objection.

4 Q. Same question with respect to the state of
5 the muqata'a in March of 2002: Are you a person most
6 knowledgeable in the Palestinian Authority with respect
7 to the comings and goings in the muqata'a?

8 A. No.

9 Q. That said, you had some experience with the
10 muqata'a in 2002, and based on your observation, and
11 we'll talk about the specific time frame of March 2002,
12 April 2002 -- first of all, what was going on in that
13 time frame?

14 A. In the muqata'a?

15 Q. In the muqata'a and in the West Bank
16 generally.

17 A. In the West Bank in general there was -- end
18 of March 2002, Israel has invaded all Area A, occupied
19 them, and literally destroyed the security forces of
20 the Palestinian Authority and held Abu Amar hostage in
21 the muqata'a.

22 Q. And when you were talking about the policies
23 with respect to access to the muqata'a, were any of
24 your statements related -- did they take into account
25 any of the conditions that were existing in that

1 specific time frame?

2 A. Well, the muqata'a was several compounds.
3 The compound which was restricted and then mostly
4 destroyed is the compound where Yasser Arafat was
5 confined. But the rest of the muqata'a housed the
6 Ministry of the Interior, a part of the Ministry of
7 Interior, the government office where people go for
8 their normal jobs, connect to the governorate, and I
9 think that's all. So there was the west wing of the
10 muqata'a was just an ordinary compound where anybody
11 could go there.

12 Q. And in March, April, May 2002, was that area
13 under a state of normalcy?

14 A. Absolutely not.

15 Q. Why not?

16 A. Because the Israeli forces were occupying
17 it, literally.

18 Q. And -- I'll leave it there.

19 Do you know who Yasser Arafat's official
20 spokesperson was in 2002?

21 A. Nabil Abu Rudeineh.

22 Q. And thank you.

23 You were asked a series of questions about
24 whether or not a particular individual was authorized
25 to speak for the Palestinian Authority. Can you

1 describe, if you know, what you meant by "authorized to
2 speak" and in what capacity someone would be authorized
3 to speak?

4 A. In the Palestinian Authority we are not very
5 much organized, to the extent there will be one place
6 where one person is per slot in the Palestinian
7 Authority. So we never have this situation where
8 somebody will be officially designated as the
9 spokesperson for the PA.

10 There were several spokespersons for parts
11 of the PA, but never, to my recollection, that one
12 person was designated or authorized or named as the
13 official spokesperson for the PA.

14 Q. And if someone were to make a statement on
15 behalf of the PA, would they make it in the media or
16 how would they make it?

17 A. Usually there is no statement which is --
18 which can be characterized as a statement on behalf of
19 the PA. Usually it is a statement on behalf of the
20 cabinet or the presidency, and it is issued in writing.

21 Q. Is there any instance that you know of in
22 which any sort of official statement was made just by
23 an individual person to the media, and not in an
24 official form in writing?

25 A. Official statements in the Palestinian

1 Authority, even in the PLO, are usually communicated in
2 writing.

3 MR. O'TOOLE: Thank you. No questions.

4 MR. HEIDEMAN: Thank you very much.

5 THE WITNESS: Thank you.

6 (The deposition concluded at 6:16 p.m.)

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